

**REMARKS/ARGUMENTS**

The Office Action mailed June 12 , 2008 has been carefully considered. Within that Office Action, claims 1-14 were rejected. Reconsideration of this application in view of the above amendments and the following remarks is respectfully requested.

**Re the 35 U. S. C. § 103(a) Rejection:**

The rejection of claims 1-14 under 35 U.S.C. §103(a) as allegedly being unpatentable over the Chocobo World – Final Fantasy 8 reference (hereinafter "Chocobo World") in view of Chiang et al. (U.S. Patent Application Publication No. 2004/0121837 - now issued as U.S. Patent No. 7,156,733) is respectfully traversed.

Within the Office Action, the Examiner recognizes that the Chocobo World reference fails to teaches or suggest “enabling a player to play a plurality of games stored on the game apparatus which stores information relating to conditions occurring during game play of at least one game into a backup data store associated with each or one or more other games that are also stored on the game apparatus; and wherein a memory write controller autonomously writing information relating to the predetermined game condition is accomplished at a time the first backup data storing area and the second backup data storing area {in distinct areas} of the memory regardless of which game program was started by the game operation controller”, as set forth in each of Applicants’ independent claims. (See, for example, the 6/12/2008 Official Action at page 5.) Consequently, the Office Action therefore relies on the Chiang et al. ‘837 reference to suggest that it would have been obvious to one having skill in the art to “employ the games and shared files as taught by Chiang et al into the teachings of Chocobo World – Final Fantasy 8.”

Applicants note that the Chiang et al. reference was filed May 5, 2003 and at best may only be entitled to an effective filing date of December 12, 2002, corresponding to Chiang et al.'s Provisional patent application No. 60/435,490. However, Applicants respectfully call to the Examiner's attention that Applicants previously submitted a claim for a foreign priority date of November 11, 2002 under 35 U.S.C. §119, which was acknowledged in the 6/12/2008 office action. Since Applicants' claimed and acknowledged 11/29/2002 foreign priority date predates Chiang et al.'s 12/20/2002 effective filing date, Applicants respectfully contend that the Chiang et al. '837 reference is not properly considered as prior art and hereby request that this rejection be withdrawn.

Moreover, no other references have been cited that provide a factual basis for the conclusion of what is alleged in the Office Action as being obvious, i.e., no teaching has been provided that suggests the obviousness of modifying the Chocobo World software to run on a game device in a manner that enables a player to play and store multiple games on the device, wherein each of the stored games has at least a backup data storage area associated with a version of a game (either single-player or multi-player) currently being played and a another separate backup storage area for containing data utilized in common with other games stored on the device, and which would further enable that game device to perform ongoing autonomous writing during gameplay of information relating to the occurrence of predetermined game conditions into both the backup data storage area associated with the game version being played and also into the other backup data storage area containing data utilized in common with other games, in the manner as set forth in Applicants' independent claims. Thus, the Office Action sets forth a conclusion of obviousness, not a reason supporting the alleged obviousness of the present invention. It is axiomatic that the PTO has a burden under §103 to establish a prima

facie case of obviousness. See *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984).

Moreover, it is submitted that claims 2-7 and 12, being dependent from independent claims 1 and 11, are patentably distinct over the teachings of the Chocobo World reference for at least the reasons set forth above with respect to the independent claims in addition to the reasons previously presented with respect to those claims.

### **Conclusion**

In view of the above remarks and previous amendments, it is believed that the above-identified patent application is in condition for allowance. The Applicants respectfully request that a timely Notice of Allowance be issued in this case. If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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